

Frequently Asked Questions

National Parks and Commercial Filming and Still Photography

10-3-2014

Q. What is the legal authority to issue permits for commercial filming and still photography?

A. On May 26, 2000 [Public Law 106-206](#) was enacted. The law applies to agencies in the Departments of the Interior and Agriculture and establishes criteria for issuing permits for commercial filming and certain still photography activities. The law is currently codified at 16 U.S.C.460l-6d (that's a lower case "L")

Q. Is there a regulation governing commercial filming and still photography permitting in the NPS?

The regulation at 43 CFR §§1 – 12 applies to the NPS, the Fish & Wildlife Service and the Bureau of Land Management. The final regulation was published in the Federal Register on August 22, 2014 (78 FR 52087). It was effective September 22, 2013. The [Federal Register](#) notice is a good source of information on the regulation.

Q. Does the law require permits for commercial filming?

A: The regulation states that all commercial filming requires a permit. The regulation uses the following definition:

Commercial filming means the film, electronic, magnetic, digital, or other recording of a moving image by a person, business, or other entity for a market audience with the intent of generating income. Examples include, but are not limited to, feature film, videography, television broadcast, or documentary, or other similar projects. Commercial filming activities may include the advertisement of a product or service, or the use of actors, models, sets, or props.

Q. When does still photography require a permit?

A: Most still photography will not require a permit. Still photography activities require a permit only if:

- The still photography activity uses models, sets or props
- The still photography activity takes place in an area where or when members of the public are not allowed
- The agency would incur costs for providing on-site management and oversight to protect agency resources and minimize visitor use conflicts.

For the purposes of NPS guidance a portrait subject is not considered a model. Examples of portrait subjects include, but are not limited to, wedding parties, high school/college, and graduates. But photography involving portrait subjects may require a permit if it also includes the use of props or sets, or is conducted in an area closed to the public, or needs to be managed by NPS personnel.

Q. Does commercial still photography require a permit?

A: Not unless it meets one of the conditions mentioned previously requiring a still photography permit. Public Law 106-206 bases the permit requirements for still photography on whether the activity will interfere with other park visitors and park activities or impact park resources; not whether the photographer is a professional.

Q. What fees and charges are authorized by Public Law 106-206?

*A: Public Law 106-206 directs the agencies to collect a reasonable fee (location fee) to provide a fair return for the use of the land and cost recovery. These fees and charges **may not** be waived. The location fee is determined from a [schedule](#) based on type of activity, number of people and number of days in the park.*

Q. What is the location fee used for?

A. 80% of the location fees collected is returned to the park to be spent according to the provisions of the original fee demonstration program. [Guidance](#) is found on Inside NPS.

Q. Does student filming require a commercial filming permit?

A. As a rule, student filming is not producing a product that is intended to generate income, so it doesn't fit the definition of commercial filming. However, NPS can issue a permit for student filming, in order to manage the activity to minimize damage to park resources and conflict with other park users. In order to confirm that the project is for a class requirement, parks may require a confirmation letter from the school as part of the permitting process. Insurance should be required for most permits, depending on the scope of the project. Cost recovery is discretionary under 16 U.S.C. 3a, but again is recommended. And there is no location fee.

Q. Are there other filming activities where the activity is not commercial filming?

A. When a park receives an application for filming, the description of the project should be compared to the definition of commercial filming at 43 CFR 5.12 to determine whether the project fits the commercial filming definition. As a rule, filming projects for governmentally sponsored convention and visitor bureaus or tourism bureaus do not fit the definition of commercial filming. In that case, the park would issue a permit in the same manner as a student filming activity. Cost recovery is discretionary and there is not location fee.

Q. Do aerial commercial filming and still photography activities require a permit?

A. Aerial commercial filming and still photography activities require a permit if they land in the park, or if they stage an activity in the park that was being filmed or photographed from the air. Policy Memorandum 14-05 "Unmanned Aircraft – Interim Policy" directed Superintendents to close the parks to launching, landing, or operating unmanned aircraft. The memo contains procedures for requesting an exception to this policy. Contact your regional special park uses coordinator or aviation program manager with additional question on the use of unmanned aircraft.

UAS are subject to FAA regulation which currently authorizes only very limited use by private, commercial companies. More information is available on the [FAA web site](#).

Q. Should permits be issued for commercial filming and still photography activities in wilderness areas?

A. The first question one should ask when presented with a commercial filming or still photography project in wilderness is “Does this project have to be conducted in wilderness?”. If the answer is no, the activity should not be permitted. Commercial filming in wilderness areas is limited to projects that are necessary or proper for providing educational information about wilderness uses, resources or values, or necessary for other wilderness purposes. Additional NPS guidance for commercial services in wilderness, including commercial filming and still photography, is found in RM-41, Commercial Services: Extent Necessary Determination Process, appendix A.